

HOUSE BILL No. 1379

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-13.5-2; IC 36-10.

Synopsis: Local government issues. Makes technical corrections in local government statutes.

Effective: July 1, 2002.

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January 15, 2002, read first time and referred to Committee on Local Government.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1379

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-13.5-2, AS ADDED BY P.L.31-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]: Sec. 2. ~~(a)~~ The shoreline development commission is
4 established.

5 SECTION 2. IC 36-10-3-23 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. (a) This section
7 applies only to:

8 (1) the acquisition of real property; or
9 (2) a work of improvement;
10 that will be financed by the issuance of bonds.

11 (b) If the board decides to:

12 (1) acquire land for any of the purposes prescribed in this chapter,
13 either by purchase or by appropriation, and in conjunction with
14 the acquisition to proceed with a work of improvement authorized
15 by this chapter;
16 (2) acquire real property without proceeding at the time with a
17 work of improvement; or

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(3) proceed with a work of improvement where the real property has been already secured; it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the resolution:

- (1) obtain from the owner or owners of the land an option for its purchase; or
- (2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

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(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint three (3) qualified appraisers to appraise its value. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. They shall then view the land, determine the true market value of it at that time, and report the appraisal in writing. The report shall be filed with and becomes a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a higher price than the value named in the report. The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and ~~are~~ **is** not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

SECTION 3. IC 36-10-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) The board may, by resolution, establish a building line determining the distance at which all structures erected upon any premises fronting a park, parkway, or boulevard may be erected. Upon the adoption of the resolution, the board shall acquire, in the name of the city, by donation, condemnation, or purchase, the land between the building line and the park, parkway, or boulevard, or an interest in the land that will secure to the board the right to prevent the erection of or to require the removal of all structures outside of the line, or both. After the adoption of the resolution, a permit may not be issued by a department or officer

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of the city authorizing the erection of a structure outside of the established line unless approved by the board.

(b) The establishment of a building line outside of a park, parkway, or boulevard in connection with the donation, condemnation, or purchase of land or an interest in it is a perpetual annihilation of all rights of the owners of property over and across which the building line runs to erect a structure or a part of one between the building line and the park, parkway, or boulevard. However, the perpetual and irrevocable free license to use and occupy the land between a building line and the park property is reserved to the property owner for purposes other than the erection of structures.

(c) If the board decides to establish a building line, the board has the same powers and shall proceed in the same manner in the condemnation, assessment, and collection of benefits, awards of damages, remonstrances, hearings, appeals, rehearings, and other matters as it does in the acquisition of real property. Benefits may not be assessed against property other than that abutting on the park, parkway, or boulevard along which the building line is established and within the limits of the building line. However, the total amount of benefits assessed against lots and parcels of land fronting on the park, parkway, or boulevard and located within the limits of the building line must equal the total cost of the establishment of the building line.

(d) A subdivision of lots or parcels of land lying within five hundred (500) feet of park, parkway, or boulevard may not be accepted for record and is not valid without the approval of the board. If the board considers it necessary, in order to promote public health, safety, morals, or general welfare, the board may, by general order or resolution, regulate:

(1) horse racing; and

(2) the location of trades, industries, commercial enterprises, buildings, or devices designed for uses that, in the order or resolution, are specified as injurious to the public health, safety, morals, or general welfare;

within five hundred (500) feet of a park, parkway, or boulevard. The right to regulate the use of this property for these purposes is considered to be included in a gift, donation, acquisition, or condemnation under this chapter. However, a lawful business being conducted upon adjacent property when jurisdiction is acquired over the property may not be prohibited or abated without a fair valuation and due compensation.

(e) Commissioners, and clerks, assistants, appointees, or employees of the board may not hold an interest, either directly or indirectly, in

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1 any kind of enterprise conducted for profit within one thousand (1,000)
2 feet of a park, parkway, or boulevard under the jurisdiction of the
3 board. The possession or ownership of an interest operates to vacate the
4 ~~officer~~ **office** or position held by the person and makes ~~him~~ **the person**
5 ineligible to hold an office or position under the board while the
6 interest is, either directly or indirectly, possessed or retained by ~~him~~.
7 **the person.**

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